REMARKS

Claims 9-18 are currently pending with claims 9 and 18 being independent. The Office Action indicates that claims 9-18 stand rejected under 35 U.S.C. § 112 paragraph 1 alleging that the specification does not disclose how to "re-route a network," and thus, is not enabling. In response, Applicant has amended independent claims 9 and 18 to address this concern. Specifically, the claims have been amended to replace the phrase "re-route the network" with the phase "modify the network." No new matter has been added.

Support for the amendment is found, for example, in the second paragraph of page 8 of the specification. This paragraph defines a "routing" as a series of circuits in the network and makes clear that the sequence of single circuit movements recited in the independent claims produces a modified network. That is, changing the series of circuit in the network is the same as modifying the network to have a different routing. Therefore, replacing the term "re-route" with the term "modify" in the claims does not add new matter. Rather, it clarifies the claim language and addresses the issue raised by the office. Accordingly, in light of the amended claims, Applicant respectfully requests that the Examiner withdraw the §112 rejection of the claims.

The Office Action next indicates that claims 9-18 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by Chaporkar (U.S. Patent Application Publication No. 2004/0083277). However, Chaporkar does not disclose every element of the claims.

Claim 9 is directed to a method for reconfiguring a telecommunications transport network after the addition or removal of a network resource such as a node or fiber. Particularly the claimed invention identifies a sequence of circuit movement steps to modify the transport network from a set of actual circuits to a set of feasible intermediate circuits. Notably a set of

intermediate circuits are those that best approximate a series of target circuits, and must continue to satisfy the same set of demands that the actual circuits already satisfy.

Claim 9 recites "identifying at the network simulator, the sequence of single circuit movements with which circuits Cl_i; were replaced as the series of single circuit movements to modify the network." Chaporkar, which teaches a method for designing a fast, cost-effective internet network, does not disclose this limitation.

Chaporkar discloses a method that updates the capacity and cost of the links in a network. The method first determines a minimum capacity for a first pair of routers based on a predicted traffic demand on that pair. The method then determines a differential cost for a link connecting the selected pair, as well as a least-cost path routing for the selected pair. Based on this information, Chaporkar updates the current capacity and costs of the network. This process continues for each link in the path.

Updating the capacity and cost of the links in the network has nothing whatsoever to do with identifying a sequence of single circuit movements in which the current circuits may be replaced thereby modifying the network. More specifically, Chaporkar obtains a least-cost path with which to traverse the paths between nodes. The claimed invention, in contrast, obtains the best order for replacing the circuits while avoiding collisions. One does not disclose the other.

Not withstanding the above facts, the Office Action supports the § 102 rejection by stating that "the prior art discloses this step as stated in the Office Action above because using another route to re-route the packets ***is similar*** [to] this step because the node must identify the nodes which [are] used to forward the packets to the destination node." *Office Action* p. 7, ¶ 9 (emphasis added). Even if Chaporkar teaches a node that must identify nodes that are used to forward packets to a destination node, it has nothing to do with a sequence (i.e. an order) of

single circuit movements that modify the network, as claimed in claim 9. More importantly, however, this is not the proper legal standard by which to apply a § 102 rejection.

It is well settled that, under 35 U.S.C. § 102, every element or limitation of a claim must identically appear in a single prior art reference for it to anticipate the claim. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990). Further, anticipation requires that the single prior art reference disclose every element of the claimed invention arranged in the same manner as claimed. *Lindemann Maschinenfabrik v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984). As evidenced above, Chaporkar does not disclose every element of the claim identically as claimed. In fact, Chaporkar remains remarkably different. The Office's statement – that Chaporkar discloses ***similar*** subject matter as that claimed is a *de facto* admission that Chaporkar does not anticipate claim 9.

Accordingly, Chaporkar does not teach each and every limitation of claim 9. Therefore, claim 9 and its independent claims are not anticipated by Chaporkar.

Claim 18 is an apparatus claim that corresponds to the method of claim 9. Claim 18 also stands rejected as being anticipated by Chaporkar for substantially the same reasons as those for claim 9. However, claim 18 contains limitations similar to those of claim 9. Accordingly, for reasons similarly to those stated above, Chaporkar does not anticipate claim 18 or any of its dependent claims.

Finally, Applicant notes that the Office Action provides the guidelines for a preferred layout for the specification of a utility application. However, the guidelines are not required for National Stage applications.

In light of the foregoing amendments and remarks, all pending claims are in condition for allowance. Therefore, Applicant respectfully requests a Notice of Allowance for all pending claims.

Respectfully submitted,
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